

AMENDED IN SENATE AUGUST 24, 2012

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2592**

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**Introduced by Assembly Member ~~Furutani~~ Williams**

February 24, 2012

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An act to amend ~~Section 33533 of, and to amend the heading of Article 3 (commencing with Section 33530) of Chapter 4 of Part 20 of Division 2 of Title 2 of, the Education Code, relating to curriculum development Sections 19104.5 and 19116 of the Education Code, relating to libraries.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2592, as amended, ~~Furutani~~ Williams. ~~Instructional Quality Commission: membership. County free public libraries: withdrawal: use of private contractors.~~

*Existing law provides that the county boards of supervisors may establish and maintain, within their respective counties, county free libraries pursuant to specified provisions of law. Existing law provides that the board of trustees, common council, or other legislative body of any city or the board of trustees of any library district may, on or before January 1 of any year, notify the county board of supervisors that the city or library district no longer desires to be a part of the county free library system, as specified.*

*Existing law imposes specified requirements on the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district that intends to withdraw from the county*

*free library system and operate the city's or library district's library or libraries with a private contractor that will employ library staff to achieve cost savings, subject to specified exceptions. These requirements, until January 1, 2019, include, but are not limited to, clearly demonstrating that the contract will result in actual overall cost savings to the city or library district for the duration of the entire contract, and prohibiting the contract from causing existing city or library district employees to incur a loss of employment or specified benefits or an involuntary transfer.*

*This bill would instead provide, until January 1, 2019, that a board of trustees, common council, or other legislative body of a city or the board of trustees of a library district in which a withdrawal from the county free library system becomes effective on or after January 1, 2012, shall comply with the above-described requirements before entering into a contract to operate the city's or library district's library or libraries with a private contractor that will employ library staff to achieve cost savings. The bill would make conforming and nonsubstantive changes.*

~~Existing law establishes the Instructional Quality Commission and, among other things, requires the Superintendent of Public Instruction and the State Board of Education to consider for membership on the commission persons representing specified subjects commonly taught in public schools.~~

~~This bill would require the Superintendent and the state board to also consider for appointment to the commission, when a vacancy occurs on or after January 1, 2013, a person representing the subject of career technical education. The bill would also make a nonsubstantive correction to an article heading.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 19104.5 of the Education Code is amended  
2     to read:

3     19104.5. (a) ~~If the~~ The board of trustees, common council, or  
4     other legislative body of a city or the board of trustees of a library  
5     district ~~intends to~~ in which a withdraw from the county free library  
6     system becomes effective on or after January 1, 2012, shall comply  
7     with all of the following requirements before entering into a

1 *contract to operate the city's or the district's library or libraries*  
2 *with a private contractor that will employ library staff to achieve*  
3 *cost savings, all of the following requirements shall apply:*

4 (1) At least once a week for four consecutive weeks ~~prior to~~  
5 *before* taking any action, the board of trustees, common council,  
6 or other legislative body of the city or the board of trustees of the  
7 library district shall publish, in a newspaper designated by it and  
8 circulated throughout the city or library district, notice of the  
9 contemplated action, giving the date and place of the meeting at  
10 which the contemplated action is proposed to be taken.

11 (2) The board of trustees, common council, or other legislative  
12 body of a city or the board of trustees of a library district shall  
13 clearly demonstrate that the contract will result in actual overall  
14 cost savings to the city or library district for the duration of the  
15 entire contract as compared with the city's or library district's  
16 actual costs of providing the same services, provided that, in  
17 comparing costs, all of the following occur:

18 (A) The city's or library district's additional cost of providing  
19 the same services as proposed by the contract shall be included.  
20 These additional costs shall include the salaries and benefits of  
21 additional staff that would be needed and the cost of additional  
22 space, equipment, and materials needed to perform the necessary  
23 functions of the library.

24 (B) The city's or library district's indirect overhead costs shall  
25 not be included unless those costs can be attributed solely to the  
26 function in question and would not exist if that function was not  
27 performed by the city or library district. For purposes of this  
28 subparagraph, "indirect overhead costs" means the pro rata share  
29 of existing administrative salaries and benefits, rent, equipment  
30 costs, utilities, and materials.

31 (C) The cost of a contractor providing a service for any  
32 continuing city or library district costs that would be directly  
33 associated with the contracted function shall be included.  
34 Continuing city or library district costs shall include, but not be  
35 limited to, costs for inspection, supervision, and monitoring.

36 (3) The contract shall not be approved solely on the basis that  
37 savings will result from lower contractor pay rates or benefits.  
38 Contracts shall be eligible for approval if the contractor's wages  
39 are at the industry's level and do not undercut city or library district  
40 pay rates.

1 (4) The contract shall not cause an existing city or library district  
2 employee to incur a loss of his or her employment or employment  
3 seniority, a reduction in wages, benefits, or hours, or an involuntary  
4 transfer to a new location requiring a change in residence.

5 (5) The contract shall be awarded through a publicized,  
6 competitive bidding process.

7 (6) The contract shall include specific provisions pertaining to  
8 the qualifications of the staff that will perform the work under the  
9 contract, as well as assurances that the contractor's hiring practices  
10 meet applicable nondiscrimination standards.

11 (7) The contract shall provide that it may be terminated at any  
12 time by the city or library district without penalty if there is a  
13 material breach of the contract and notice is provided within 30  
14 days of termination.

15 (8) If the contract is for library services in excess of one hundred  
16 thousand dollars (\$100,000) annually, all of the following shall  
17 occur:

18 (A) The city or library district shall require the contractor to  
19 disclose all of the following information as part of its bid,  
20 application, or answer to a request for proposal:

21 (i) A description of all charges, claims, or complaints filed  
22 against the contractor with any federal, state, or local administrative  
23 agency during the prior 10 years.

24 (ii) A description of all civil complaints filed against the  
25 contractor in any state or federal court during the prior 10 years.

26 (iii) A description of all state or federal criminal complaints or  
27 indictments filed against the contractor, or any of its officers,  
28 directors, or managers, at any time.

29 (iv) A description of any debarments of the contractor by any  
30 public agency or licensing body at any time.

31 (B) The city or library district shall include in the contract  
32 specific, measurable performance standards and provisions for a  
33 performance audit by the city or library district, or an independent  
34 auditor approved by the city or library district, to determine  
35 whether the performance standards are being met and whether the  
36 contractor is in compliance with applicable laws and regulations.  
37 The city or library district shall not renew or extend the contract  
38 ~~prior to~~ *before* receiving and considering the audit report.

39 (C) The contract shall include provisions for an audit by the  
40 city or library district, or an independent auditor approved by the

1 city or library district, to determine whether and to what extent the  
2 anticipated cost savings have actually been realized. The city or  
3 library district shall not renew or extend the contract before  
4 receiving and considering the audit report.

5 (9) The term of the contract shall not be more than five years  
6 from the date on which the board of trustees, common council, or  
7 other legislative body of a city or the board of trustees of a library  
8 district approves the contract.

9 (b) This section does not preclude a city, library district, or local  
10 government from adopting more restrictive rules regarding the  
11 contracting of public services.

12 (c) This section shall not apply to contracts between a city or  
13 library district and a nonprofit organization if both of the following  
14 requirements are met:

15 (1) The nonprofit organization shall not be a parent or subsidiary  
16 of a for-profit entity.

17 (2) The contract shall prohibit the nonprofit organization from  
18 subcontracting the obligation to operate the library or libraries and  
19 to employ and supervise library staff.

20 *(d) This section shall not apply to a library or libraries that are*  
21 *funded only by the proceeds of a special tax imposed by the city*  
22 *or library district pursuant to Article 3.5 (commencing with Section*  
23 *50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the*  
24 *Government Code.*

25 ~~(d)~~

26 (e) This section shall remain in effect only until January 1, 2019,  
27 and as of that date is repealed, unless a later enacted statute, that  
28 is enacted before January 1, 2019, deletes or extends that date.

29 SEC. 2. *Section 19116 of the Education Code is amended to*  
30 *read:*

31 19116. (a) (1) Sections 19104 and 19105 are not applicable  
32 to the withdrawal of a city or library district from the county free  
33 library system in Los Angeles County or Riverside County. The  
34 legislative body of a city or the board of trustees of a library  
35 district, whose jurisdiction is within the County of Los Angeles  
36 or the County of Riverside, may notify the board of supervisors  
37 for Los Angeles County or Riverside County, as appropriate, that  
38 the city or library district no longer desires to be a part of the  
39 county free library system. The notice shall state whether the city  
40 or library district intends to acquire property pursuant to

subdivision (c). The board of supervisors shall transmit a copy of the notice to the Los Angeles County Assessor or Riverside County Assessor, as appropriate, the Los Angeles County Auditor or Riverside County Auditor, as appropriate, and the State Board of Equalization.

~~(2) If the city's legislative body or the library district's board of trustees intends to withdraw from the county free library system and operate~~ *The legislative body of a city or the board of trustees of a library district in which a withdrawal from the county free library system in Los Angeles County or Riverside County becomes effective on or after January 1, 2012, shall comply with the requirements of Section 19104.5 before entering into a contract to operate the city's or the district's library or libraries with a private contractor that will employ library staff to achieve cost savings, the requirements of Section 19104.5 shall also apply, unless the library or libraries are funded only by the proceeds of a special tax imposed by the city or library district pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.*

(b) When a city or library district files a notice pursuant to subdivision (a), it shall remain a member of the county free library system until July 1 of the base year or the date on which property is transferred pursuant to subdivision (c), whichever date is later. Upon ceasing to be a member of the county free library system, the city or library district shall not participate in any benefits of the county free library system, and shall assume the responsibility for the provision of library services within its jurisdiction. Unless otherwise agreed by July 1 of the base year in writing by the Board of Supervisors of Los Angeles County or the Board of Supervisors of Riverside County, as appropriate, and the withdrawing city or library district, an amount of property tax revenue equal to the property tax revenues allocated to the county free library pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code in the fiscal year ~~prior to~~ *before* the base year and that were derived from property situated within the boundaries of the withdrawing entity shall be allocated to and used to maintain library services by the withdrawing entity in the base year and, adjusted forward, in each fiscal year thereafter at the same time allocations are made pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part

1 0.5 of Division 1 of the Revenue and Taxation Code. This  
2 subdivision shall not apply to property tax revenues that have been  
3 pledged to repay bonded indebtedness of the county free library  
4 system.

5 (c) If there are one or more county library facilities within the  
6 territorial boundaries of the withdrawing entity at the time the  
7 withdrawing entity provides notice pursuant to subdivision (a),  
8 the withdrawing entity shall have the right to acquire any or all of  
9 those facilities from the county and the county shall, no later than  
10 July 1 of the base year, transfer to the withdrawing entity each  
11 facility to be acquired and the personal property therein related to  
12 the provision of library services. If the facility or personal property  
13 was purchased with bond proceeds or other forms of indebtedness,  
14 acquisition shall only take place if the withdrawing entity assumes  
15 any remaining indebtedness and in no way impairs the repayment  
16 thereof. If the withdrawing entity opts not to acquire any facilities  
17 or personal property, the county at its discretion may dispose of  
18 the facilities or personal property or convert the use of those  
19 facilities or personal property, including transferring collections  
20 and other personal property to other sites and converting facilities  
21 to other purposes. If the withdrawing entity opts to acquire any  
22 facilities or personal property, the acquisition prices shall be as  
23 follows unless otherwise provided for by statute or contract:

24 (1) Each county library facility which, for purposes of this  
25 section, shall include the real property upon which the facility is  
26 located and any fixtures therein and shall not include computer  
27 systems and software, shall be transferred for the lesser of:

28 (A) No cost, if the facility was donated to the county by the  
29 withdrawing entity.

30 (B) The price paid to the withdrawing entity by the county for  
31 the facility, if the county bought the facility from the withdrawing  
32 entity. However, if the county constructed capital improvements  
33 to the facility after it was bought from the withdrawing entity, the  
34 county's total out-of-pocket costs for the capital improvement  
35 excluding any costs for routine repairs, restoration, or maintenance,  
36 shall be added to the price.

37 (C) The fair market value of the facility. However, if any portion  
38 of the facility was donated to the county by the withdrawing entity  
39 or if any moneys were donated by the withdrawing entity toward  
40 the county's construction or acquisition of the facility or any

1 portion thereof, the value of the donation shall be subtracted from  
2 the fair market value.

3 (2) Any personal property within the facility related to the  
4 provision of library services, including books and resource  
5 materials, computer systems and software, furniture, and  
6 furnishings, shall be transferred for the lesser of:

7 (A) No cost, if the property was donated to the county by the  
8 withdrawing entity.

9 (B) The fair market value of the personal property. However,  
10 on or before the March 1 preceding the July 1 of the base year, the  
11 county librarian may designate collections of resource books and  
12 materials that are unique in, and integral to, the county free library  
13 system to be special collections. The special collections shall be  
14 acquired by the withdrawing entity only upon mutually agreeable  
15 terms and conditions.

16 (d) If a facility transferred pursuant to subdivision (c) serves  
17 residents of surrounding jurisdictions, the board of supervisors  
18 governing the county free library system may require, as a  
19 condition of transferring the facility, that the library services  
20 provided by the withdrawing entity to its residents also be available  
21 on the same basis to the residents of the surrounding jurisdictions.  
22 However, if the withdrawing entity contributes to the provision of  
23 library services from other city funds, or through taxes,  
24 assessments, or fees of its residents, the withdrawing entity may  
25 provide additional services to its residents. If the requirement to  
26 provide regional services is imposed and, unless otherwise agreed  
27 in writing by the county and the withdrawing entity by July 1 of  
28 the base year, an amount of property tax revenues equal to the  
29 property tax revenues derived from property situated in the  
30 surrounding jurisdictions that were, in the fiscal year before the  
31 base year, allocated to the county free library system pursuant to  
32 Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5  
33 of Division 1 of the Revenue and Taxation Code shall be allocated  
34 to and used to maintain library services by the withdrawing entity  
35 in the base year and, adjusted forward, in each fiscal year thereafter  
36 at the same time other allocations are made pursuant to Article 2  
37 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division  
38 1 of the Revenue and Taxation Code. This subdivision shall not  
39 apply to property tax revenues that have been pledged to repay  
40 bonded indebtedness. If a surrounding jurisdiction subsequently



1 provides notice of its intent to withdraw from the county free  
2 library system pursuant to subdivision (a), on the date the  
3 surrounding jurisdiction ceases to participate in the benefits of the  
4 county free library system pursuant to subdivision (b), the  
5 withdrawing entity shall no longer be required to make library  
6 services available to the residents of the surrounding jurisdiction  
7 and property tax revenues derived from property situated in the  
8 surrounding jurisdiction shall no longer be allocated to the  
9 withdrawing entity pursuant to this subdivision.

10 (e) For purposes of this section, the following terms are defined  
11 as follows:

12 (1) "Base year" means the fiscal year commencing on the July  
13 1 following the December 2 following the date of the notice given  
14 pursuant to subdivision (a) of this section.

15 (2) "Fair market value" means:

16 (A) Any value agreed upon by the withdrawing entity and the  
17 county.

18 (B) If no agreement as to value is reached by the March 1  
19 preceding the July 1 of the base year, the value assigned by an  
20 appraiser agreed upon by the withdrawing entity and the county.

21 (C) If no agreement as to the appointment of an appraiser is  
22 reached pursuant to subparagraph (B) by the April 1 preceding the  
23 July 1 of the base year, the value assigned by an appraiser agreed  
24 upon between the withdrawing entity's appraiser and the county's  
25 appraiser.

26 (D) If no agreement as to the appointment of an appraiser is  
27 reached pursuant to subparagraph (C) by the May 1 preceding the  
28 July 1 of the base year, the value assigned by a state-certified  
29 appraiser designated by the withdrawing entity. The designated  
30 appraiser shall provide the appraisal in writing to the county no  
31 later than the June 1 preceding the July 1 of the base year.

32 (E) The withdrawing entity shall reimburse the county for any  
33 appraisal costs the county incurs in determining the fair market  
34 value pursuant to this section.

35 (3) "Surrounding jurisdictions" means cities and library districts  
36 that are adjacent to the withdrawing entity and tax rate areas in  
37 unincorporated areas of the county that are wholly or partially  
38 within the withdrawing entity's sphere of influence, that are within  
39 the county free library system, and that have no facility within

1 their territorial boundaries providing library services at the time  
2 the withdrawing entity provides notice pursuant to subdivision (a).

3 ~~SECTION 1. The heading of Article 3 (commencing with~~  
4 ~~Section 33530) of Chapter 4 of Part 20 of Division 2 of Title 2 of~~  
5 ~~the Education Code is amended to read:~~

6  
7 ~~Article 3. Instructional Quality Commission~~  
8

9 ~~SEC. 2. Section 33533 of the Education Code is amended to~~  
10 ~~read:~~

11 ~~33533. (a) The Superintendent and the state board shall~~  
12 ~~consider for membership on the commission persons representing~~  
13 ~~subjects commonly taught in public schools, including:~~

14 ~~(1) English.~~

15 ~~(2) Social sciences.~~

16 ~~(3) Foreign languages.~~

17 ~~(4) Science.~~

18 ~~(5) Mathematics.~~

19 ~~(6) Visual and performing arts.~~

20 ~~(7) Applied arts.~~

21 ~~(8) Conservation education.~~

22 ~~(b) When a vacancy occurs on or after January 1, 2013, the~~  
23 ~~Superintendent and the state board shall also consider for~~  
24 ~~appointment to the commission a person representing the subject~~  
25 ~~of career technical education.~~